

**Introduced by Senator McPherson**

February 21, 2003

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An act to amend Sections 36522 and 36523 of, and to repeal Section 36523.5 of, the Streets and Highways Code, relating to improvement areas.

LEGISLATIVE COUNSEL'S DIGEST

SB 938, as introduced, McPherson. Parking and business improvement areas.

The Parking and Business Improvement Area Law of 1989 authorizes a city council to establish a parking and business improvement area and to levy benefit assessments on businesses within the area for the purpose of providing specified improvements and activities. Existing law requires the proceedings to be instituted by adoption of a resolution of intention containing specified information.

This bill would authorize a resolution of intention to provide for the levy of annual assessments for a period not to exceed 5 years.

Existing law requires a public hearing to take place between 20 and 30 days after adoption of the resolution, for the establishment or modification of an area, or of improvements or activities in an area, or for the disestablishment of an area, and sets forth certain notice requirements for the hearing.

This bill would change the date on which a public hearing for a parking and business improvement area must take place to at least 45 days after the adoption of the resolution of intention. The bill would make other related changes.

The bill would additionally require the holding of a public meeting at which local officials would allow public testimony in those cases in which a new or increased assessment is proposed.

This bill would delete current notice requirements for hearings involving the adoption of new or increased assessments, and would instead require joint notice of any public meeting and public hearing, as specified, to be given to all business owners proposed to be subject to the new or increased assessment by prepaid mail. The bill would require the public meeting to take place at least 10 days after notice is given.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 36522 of the Streets and Highways  
2 Code is amended to read:  
3 36522. Proceedings to establish a parking and business  
4 improvement area shall be instituted by the adoption by the city  
5 council of a resolution of intention to establish the area. The  
6 resolution of intention shall do all of the following:  
7 (a) State that a parking and business improvement area is  
8 proposed to be established pursuant to this chapter and describe the  
9 boundaries of the territory proposed to be included in the area and  
10 the boundaries of each separate benefit zone to be established  
11 within the area. The boundaries of the area may be described by  
12 reference to a map on file in the office of the clerk, showing the  
13 proposed area.  
14 (b) State the name of the proposed area.  
15 (c) State the type or types of improvements and activities  
16 proposed to be funded by the levy of assessments on businesses in  
17 the area. The resolution of intention shall specify any  
18 improvements to be acquired.  
19 (d) State that, except where funds are otherwise available, an  
20 assessment will be levied annually to pay for all improvements and  
21 activities within the area. *The resolution may provide for the levy*  
22 *of annual assessments for a period not to exceed five years.*  
23 (e) State the proposed method and basis of levying the  
24 assessment in sufficient detail to allow each business owner to  
25 estimate the amount of the assessment to be levied against his or  
26 her business.  
27 (f) State whether new businesses will be exempt from the levy  
28 of the assessment, pursuant to Section 36531.



(g) Fix a time and place for a *public meeting and a public hearing* on the establishment of the parking and business improvement area and the levy of assessments, ~~which. The public hearing at which the legislative body proposes to enact or increase an assessment~~ shall be held not less than 20 or more than 30 45 days after the adoption of the resolution of intention. *The public meeting, at which local officials allow public testimony regarding the proposed assessment, shall be held before the public hearing.*

(h) State that at the hearing the testimony of all interested persons for or against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities will be heard. ~~The notice shall also describe, in summary, the effect of protests made by business owners against the establishment of the area, the extent of the area, and the furnishing of a specified type of improvement or activity, as provided in Section 36524.~~

SEC. 2. Section 36523 of the Streets and Highways Code is amended to read:

36523. (a) Notice of a public hearing held under Section 36524, 36541, 36542, or 36550 *that does not involve the adoption of a new or increased assessment* shall be given by both of the following:

(a)

(1) Publishing the resolution of intention in a newspaper of general circulation in the city once, for at least seven days before the public hearing.

(b)

(2) Mailing of a complete copy of the resolution of intention by first-class mail to each business owner in the area within seven days of the city council's adoption of the resolution of intention.

~~(c) Notwithstanding subdivision (b), in the case of an area established primarily to promote tourism, a copy of the resolution of intention shall be mailed by first-class mail within seven days of the city council's adoption of the resolution of intention, to the owner of each business in the area which will be subject to assessment.~~

(b) (1) *Joint notice of any public meeting and public hearing held under Section 36524, 36541, 36542, or 36550 that involves the adoption of a new or increased assessment shall be given to all*

1 *business owners proposed to be subject to the new or increased*  
2 *assessment.*

3 *(2) The mailed notice shall include, but not be limited to, the*  
4 *following information:*

5 *(A) The estimated amount of the assessment per business. If the*  
6 *assessment is proposed to be increased from the previous year, the*  
7 *notice shall separately state the amount of the existing assessment*  
8 *and the proposed assessment increase.*

9 *(B) A general description of the purpose or improvements that*  
10 *the assessment will fund, although the description may be more*  
11 *specific if the legislative body determines it to be appropriate.*

12 *(C) The address to which property owners may mail a protest*  
13 *against the assessment.*

14 *(D) The telephone number and address of an individual, office,*  
15 *or organization that interested persons may contact to receive*  
16 *additional information about the assessment.*

17 *(E) A statement that a majority protest will cause the*  
18 *assessment to be abandoned.*

19 *(F) The dates, times, and locations of the public meeting and*  
20 *hearing, described in subdivision (d).*

21 *(G) A proposed assessment formula or range that is sufficiently*  
22 *detailed to allow each business owner to estimate the amount of the*  
23 *assessment to be levied against his or her business.*

24 *(3) In the case of an area established primarily to promote*  
25 *tourism, a copy of the resolution of intention shall also be mailed*  
26 *by first-class mail within seven days of the city council's adoption*  
27 *of the resolution, to the owner of each business in the area that will*  
28 *be subject to the assessment.*

29 *(c) The mailed notice given pursuant to subdivisions (a) and (b)*  
30 *shall be in at least 10-point type and shall include, on the envelope*  
31 *or cover of the mailing, the name of the local agency and the return*  
32 *address of the sender; and shall be deposited in the United States*  
33 *mail with postage prepaid. Notice shall be deemed given when so*  
34 *deposited.*

35 *(d) (1) A public meeting pursuant to subdivision (g) of Section*  
36 *36522 shall take place no earlier than 10 days after notice is given*  
37 *pursuant to paragraph (1) of subdivision (b).*

38 *(2) A public hearing shall take place not less than 45 days after*  
39 *the adoption of the resolution of intention pursuant to Section*

1 36522 and, if a public meeting is required, no earlier than seven  
2 days after the meeting is held.

3 SEC. 3. Section 36523.5 of the Streets and Highways Code is  
4 repealed.

5 ~~36523.5. Notwithstanding Section 36523, prior to adopting~~  
6 ~~any new or increased assessment, the city council shall give notice~~  
7 ~~pursuant to Section 54954.6 of the Government Code in lieu of~~  
8 ~~publishing notice pursuant to subdivision (a) of Section 36523.~~

